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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,647	09/19/2003	Nareak Douk	P1585 US 6082	
7	590 09/24/2004		EXAM	INER
Catherine C. Maresh		SIRMONS, KEVIN C		
Medtronic Vas	cular, Inc.			-
3576 Unocal Place		ART UNIT	PAPER NUMBER	
Santa Rosa, CA 95403			· 3763	

DATE MAILED: 09/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE £ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Exhibition of time may be available under the prevision of 3 CFR 1.13(6), in no event, however, may a reply be timely filed  Exhibition of time may be available under the prevision of 3 CFR 1.13(6), in no event, however, may a reply be timely filed  Exhibition of time previous properties above is less than thirty (30) days, a reply whith the abstatory minimum of thirty (30) days, will be considered threey.  If the period for reply septicities dove is less than thirty (30) days, a reply whith the set or orteneded period for reply will, by a faulted; period will apply and will depice 15(6) (90) (101) (		Application No.	Applicant(s)				
Kevin C. Sirmons   3763   37		10/665,647	DOUK ET AL.				
The MALING DATE of this communication appears on the cover sheet with the correspondence address — Period for Repty  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MALING DATE OF THIS COMMUNICATION.  Excession of time may be available used the provisions of 37 CFR 1.136(s). In no event, however, may a reply be timely field with the control of the co	Office Action Summary	Examiner	Art Unit				
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Extensions of time may be available under the provisions of 37 CPR 1.35(b), In no event, however, may a reply be limitly filed  Extensions of time may be available under the provisions of 37 CPR 1.35(b), In no event, however, may a reply be limitly filed  Extensions of time may be available under the provisions of 37 CPR 1.35(b), In no event, however, may a reply be limitly filed  Extensions of time may be available under the provisions of 37 CPR 1.35(b), In the statutory minimum of limity (30) days will be considered directly. If the provision of the population for one provision of the provision of Claims  4) Claim(s) 1.34 is/are pending in the application.  4a) Of the above claim(s) is/are allowed.  5) Claim(s) 1.34 are subject to restriction and/or election requirement.  Application Papers  9) The specification is objected to by the Examiner.  10) The drawing(s) filed on is/are collected to by the Examiner.  Application Papers  9) The precification is objected to by the Examiner.  10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Application Papers  9) The precification is objected to by the Examiner.  10) The drawing(s) filed on is/are: a) accepted or b) objected to See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to See 37 CFR 1.121(d).  11) The oath or declaration is objected to by the Examiner.  22)		Kevin C. Sirmons	3763				
THE MAILING DATE OF THIS COMMUNICATION.  Etasebors of time may be smalled used the provisions of 3 CFR 1.13(6). In no event, however, may a nephy be timely filed after SIX (8) MONTHS from the mailing date of this communication.  It the period in may be smalled be less than think (70) days, a resign within the dataflory minimum of think (10) days with be considered timely.  False to reply within the set or catesided period for reply will, by a faultory minimum of think (10) days with be considered timely.  False to reply within the set or catesided period for reply will, by a faultor, cause the application to become ARANDONED (35 U.S.C. § 133). Any reply received by the Office fair than these monitors after the mailing date of this communication.  False to reply within the set or catesided period for reply will, by a faulto, cause the application to become ARANDONED (35 U.S.C. § 133). Any reply received by the Office fair than these monitors after the mailing date of this communication.  False to reply within the set or catesided period for reply will, by a faulto, cause the application to become ARANDONED (35 U.S.C. § 133). Any reply received by the Office fair than these monitors after the mailing date of this communication.  False to reply within the set or catesided period for reply will, by a faulton, and the provided fair than th	The MAILING DATE of this communication apportant Period for Reply	ears on the cover sheet with the co	orrespondence address				
1)   Responsive to communication(s) filed on   19 September 2003.	<ul> <li>THE MAILING DATE OF THIS COMMUNICATION.</li> <li>Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.</li> <li>If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.</li> <li>If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</li> <li>Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).</li> <li>Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any</li> </ul>						
2a) This action is FINAL.  2b) This action is non-final.  3 Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) f-34 is/are pending in the application.  4a) Of the above claim(s) is/are allowed.  6) Claim(s) is/are allowed.  6) Claim(s) is/are objected to.  8) Claim(s) f-34 are subject to restriction and/or election requirement.  Application Papers  9) The specification is objected to by the Examiner.  10) The drawing(s) filed on is/are: allowed accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:  1. Certified copies of the priority documents have been received.  2. Copies of the certified copies of the priority documents have been received in Application No.  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.	Status	•					
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Application/Control Number: 10/665,647

Art Unit: 3763

## **DETAILED ACTION**

## Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-29, drawn to a low-profile catheter, classified in class 604, subclass 245.
- II. Claims 30-34, drawn to a method for manufacturing, classified in class 264, subclass 238.

The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the process as claimed can be used to make an embolic filtering device.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

This application contains claims directed to the following patentably distinct species of the claimed invention:

Species 1	Figs. 1-3	Species 2	Figs. 4-6
Species 3	Fig 7	Species 4	Fig 8

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

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Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

A telephone call was made to Frank Nicholas on 9/20/04 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the

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application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

## Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin C. Sirmons whose telephone number is 703-306-5410. The examiner can normally be reached on Monday-Friday 6:30-4:00 ALT FRI.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, coptact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kevin C. Sirmons Patent Examiner

9/20/04